

Staff Summary Report



Hearing Officer Hearing Date: May 6, 2008

Agenda Item Number: 2

SUBJECT: This is a public hearing for a request by the **MATWICK RESIDENCE (PL080037)** located at 1733 East Louis Way, for one (1) variance.

DOCUMENT NAME: 20080506dsng01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **MATWICK RESIDENCE (PL080037)** (Michael Matwick, applicant/property owner) located at 1733 East Louis Way in the AG, Agricultural District for:

VAR08008 Variance to reduce the rear yard setback from thirty-five (35) feet to twelve (12) feet.

PREPARED BY: Alan Como, Planner II (480-350-8439)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

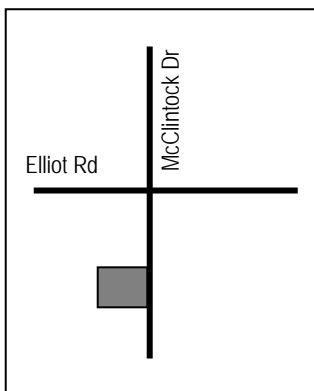
A handwritten signature in black ink, appearing to read 'SEA'.

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff –Denial

ADDITIONAL INFO: The applicant is requesting a variance to reduce the required rear yard setback from thirty-five feet (35') to twelve feet (12') for a previously approved accessory building located at 1733 East Louis Way in the AG, Agricultural District. The Matwick Residence received an approval for a use permit for the accessory building on March 4, 2007. Staff does not support the requested variance owing to a lack of special circumstances that other similarly zoned properties have, and because the conditions are self imposed by the applicant. Three letters of support from nearby residents have been received.



PAGES:

1. List of Attachments
2. Comments; Reasons for Denial
3. Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-8. Letter of Intent and applicant photographs
- 9-11. Letters of Support
12. Site plan
- 13-17. Staff Photograph(s)

COMMENTS:

The Matwick residence is requesting a variance to reduce the required rear yard setback from thirty-five feet (35') to twelve feet (12') for a previously approved accessory building located at 1733 East Louis Way in the AG, Agricultural District. The applicant received an approval for a use permit for the accessory building on March 4, 2007, which at the time was shown to be within the required setbacks. The applicant has included examples and pictures of six (6) neighboring properties that have structures encroaching into the setbacks. Five of those properties are in a different zoning category; the sixth property has a structure that was located contrary to plans on file with the City of Tempe. Staff notes that none of the eight (8) properties to the south of the bridal path that is to the rear of the Matwick Residence have variances to reduce rear yard setbacks. All of those properties have the same zoning, AG, as the Matwick residence.

Staff does not support the variance request due to a lack of hardship, a lack of special circumstances, and the self-imposed condition by the Matwick Residence that necessitates this request. Staff would support a use permit standard reduction by twenty percent (20%) from thirty-five feet (35') to twenty-eight feet (28').

To date, three letters of support have been received from nearby property owners; including the property owner to the rear of the Matwick Residence.

Variance

The Zoning and Development Code requires a variance to reduce the rear yard setback from thirty-five feet (35') to twelve feet (12') in the AG, Agricultural District.

Evaluating the variance, the proposal does not appear to meet the criteria for approving the variance:

- a. There are special circumstances or conditions applying to the land, building, or use referred to in the application;
 - There are no special circumstances that relate to this lot that do not relate to other lots within the AG, Agricultural District.
- b. That authorizing the variance is necessary for the preservation and enjoyment of substantial property rights;
 - Reducing the setbacks for an approved accessory building is not necessary as the building can be located on the lot within the required setbacks.
- c. A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner.
 - The owner has created a self-imposed condition by requesting to locate the structure within twelve feet (12') of the property line. The building can be located on the lot such that it does not encroach into the required rear yard setback.

Conclusion

Staff recommends denial of the requested variance.

**REASON(S) FOR
DENIAL:**

1. There are no special circumstances related to this property that do not relate to other properties within the AG, Agricultural District.
2. There appears to be no substantial loss of property rights in denying this request. The approved structure can still be located on the lot such that it does not encroach into the required rear yard setback.
3. The conditions that necessitated this request are self imposed by the applicant as they wish to locate the approved building closer to the property line than what the required setbacks allow.

**SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE
FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.**

**CONDITION(S)
OF APPROVAL:**

1. Obtain all necessary clearances from the building safety division.
2. Comply with all conditions of the use permit to allow an accessory building (ZUP08021).

HISTORY & FACTS:

July 27, 2000: BP001059 Building Final for New Home

March 4, 2008: ZUP08021 Use permit to allow an accessory building

DESCRIPTION:

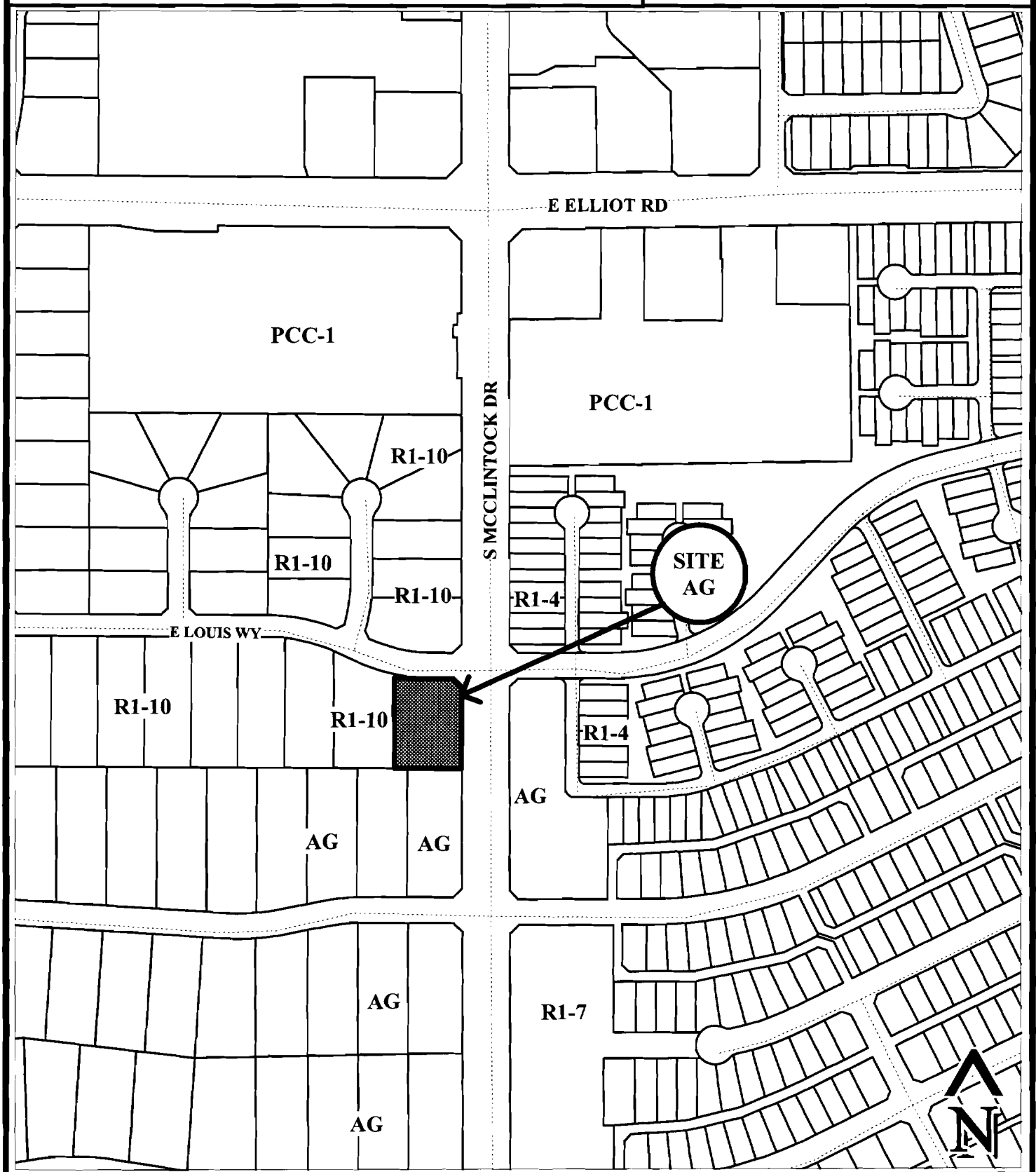
Owner – Michael Matwick
Applicant – Michael Matwick
Existing Zoning – AG, Agricultural District
Lot Size - 30,296 s.f. / .70 acres
Existing Home area - 5,585 s.f.
Approved Accessory Bldg. Area - 1,960 s.f.
Existing Home Height - 17'
Approved Accessory Bldg. Height - 15'- 11½"
Rear Yard Setback - 35 feet
Proposed rear yard setback – 12 feet
Side Yard Setback - 20 feet
Existing Lot Coverage - 18.4%
Proposed Lot Coverage - 25%
Lot Coverage Allowed - 25%

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Part 4, Chapter 2, Section 4-202.
Part 6, Chapter 3, Section 6-309.

MATWICK RESIDENCE

PL080037





MATWICK RESIDENCE (PL080037)

To: City of Tempe Development Service
From: Michael R. Matwick
1733 E. Louis Way
Tempe, AZ 85284
Re: Letter of Explanation for Variance Request
Date: April 7, 2008

On March 4, 2008, a Use Permit was granted for the placement of an accessory building on our property. At the time of that request, we were not aware of the exact location of the starting point of the 35' setback on the back side of the property. An explanation and description of the impact is detailed below.

Background

Our property at 1733 E. Louis Way, is the only property within our development that is zoned as AG. All other properties on Louis Way are zoned R1-10.

Special Circumstances and Existing Conditions

At the time of our original submission for a Use Permit, we believed that the property line from which the rear yard setback would be established was the center of what we believed to be an alley on the south side of the wall at the rear of our property. After reviewing the site plan with Development Services staff, we were informed that what we believed to be an alley, was actually a bridal path, which extends the property line of our neighbors to the south of us all the way to our wall. As the result, any portion of the setback that would normally be outside of the wall if measured from the center of the alley has been lost.

Included with this letter of explanation are a series of photos. The following existing conditions are present in the neighborhood:

1. **Pictures A & B** - The property immediately to the south of our residence has a two story block structure that is located 10' within the block wall on the north side of the property. The wall height is approximately 5' with no screening or landscape to protect the view of for surrounding residences.
2. **Pictures C & D** - Pictures C & D are of the property immediately to the west of our property. There is an RV parking structure (Picture C) and a garage attached to an accessory building (Picture D) which are both less than 8' from the property line. The RV structure has faded metal screening to protect the view on our property. Picture C also shows the height differential between our block fence, at 7' and the block fence of the property to the west at 6'. Picture D shows the garage of the accessory building less than 10' from the property line.
3. **Pictures E & F** - Both pictures are of an accessory building 5 houses west of our property. The structure is less than 5' from the property line, as clearly shown in Picture F. In addition, no block fence or landscape screening are in place.
4. **Picture G** - Picture G is of an accessory building 6 houses to the west of our property. The structure is less than 20' from the property line and has no block wall or landscape screening. Picture G also shows accessory buildings on the 7th and 8th property to the west of ours, less than 20' from the property line, with no visual screening.

5. **Picture H** – This is a picture of the accessory building on the property of the 8th house to the west of our property, less than 20' from the property line with no screening.

Overall, it is my belief that the proposed project is more agreeable with the overall maintenance of the quality of life in the neighborhood due to the fact that if granted the variance, the structure would be no closer to the property line than that of 6 current structures on Louis Way and the structure to the property immediately south of ours, and that our project includes significant screening, in the form of the block wall and landscape elements on the east, south and west sides of the property, which will prohibit anyone from seeing the structure, unless inside the perimeter of the block wall.

Preservation and Enjoyment of Property Rights

As the result of the location of the property line, and in consideration of the AG rear yard setback requirement of 35', the ability to enhance the value of our property and to fully utilize the entirety of the property is being severely limited. Definite negative impacts include:

1. **Aesthetic Appeal Inside the Residence Property** – The property to the south of ours currently houses a large, two story, barn-type structure. The project that we are proposing will significantly limit the negative visual impact of that structure from our residence, by upgrading the landscape, and placing our own accessory structure, which is to be constructed to be consistent with the overall look and feel of our residence, in a visually pleasing location.
2. **Restricted Use of the Property** – The fact that the setback begins at the wall, rather than in what we believed to be the alley south of the property, combined with the 35' setback requirement, negatively impacts our ability to fully utilize the property.
3. **Property Valuation** – The overall scope of the project that we are undertaking is a significant upgrade to our property that will enhance our property value, and ultimately the value of surrounding homes. As a long-time resident and business owner in Tempe, I chose to remain in this community, rather than move to an outlying area, for the quality of life in this city. A key element to that quality of life, is the ability to increase the value of our home, and to fully utilize our property in a manner that is consistent with other uses in the neighborhood.
4. **Potential Negative Impact to the Neighborhood** – I am currently a member of the Pheasant Ridge Neighborhood Association, and have attended and hosted meetings of our group. From the inception of this project, most of our neighbors were aware of the nature and scope of the project and to date, we have received nothing but positive feedback about the project. It should be noted that approximately 15 homes in the neighborhood are, or have completed upgrades to the properties over the past 3 years. The proposed variance request will have no negative impact to our neighbor on the west, and our intent is to mitigate against the current negative impact that we are suffering as the result of the "industrial style" structure directly to the south of our property.
5. **Landscape Design and Line of Sight Screening** – As noted in the pictures submitted with this request, most of the homes on the south side of Louis Way are enclosed on the south side of the property with some combination of metal tubular fencing and/or chain link fence. Most residences also have no landscape screening. The overall concept for the accessory building and related landscape design is such that once completed, the block wall surrounding the property and the height of the trees to be including in the design will provide no direct line of sight by which the structure may be viewed from outside the property.

Community Support

Included with the variance request are letters of support with the homeowners whose property borders with 1733 E. Louis Way. Letters are included from:

Kimberly Fatica (property immediately north of residence)
7751 S. Alder Drive
Tempe, AZ 85284

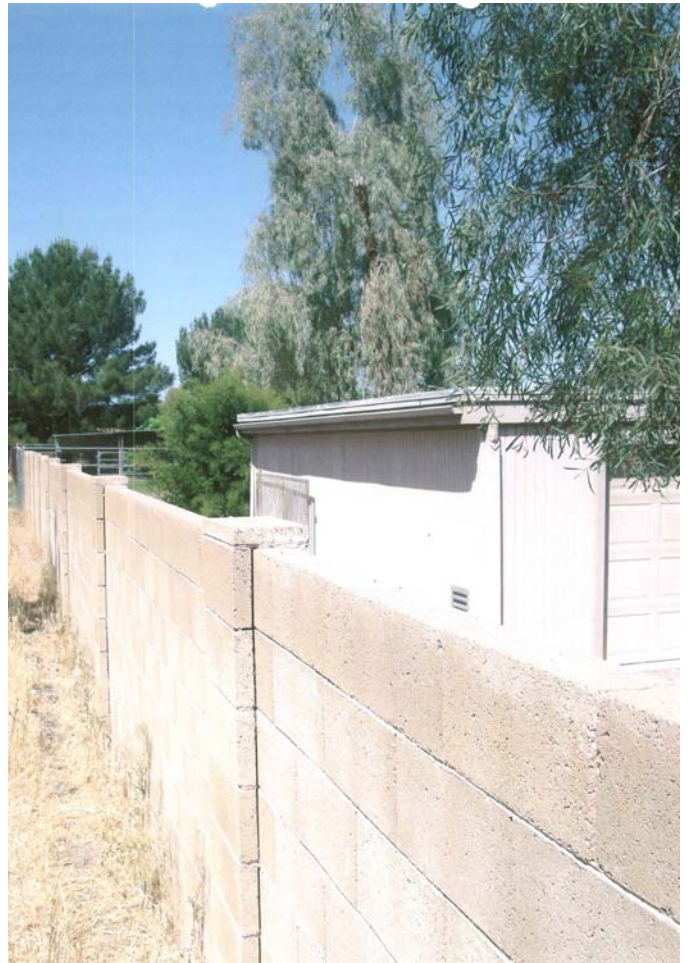
Stephen Schlotterer (property immediately south residence)
1718 E. Secretariat Drive
Tempe, AZ 85284

Variance Request

The specific request that I am making related to this issue is to have the rear yard setback requirement of 35' reduced to 12' on this property.

By reducing the rear yard setback to 12', I will be able to create enough of a landscape area behind the accessory building to provide adequate screening of the two story block structure to our south, and still build the accessory structure in a location that will allow us to maximize the use of our property and keep appropriate buffering between the structure and the bridal path to our south.







ATTACHMENT 8

To: Tempe Development Services
Re: Support for Variance Request for Matwick Residence

I am writing this letter in support of Michael and Betty Matwick being granted a variance to place an accessory building 12' north of their rear yard property line. I have had the opportunity to review the overall plan and feel that it will have no negative impact to my property, and believe that it will ultimately enhance the overall value of the property.

Signature: *Kimberly A. Fatica*
Printed Name: Kimberly A. Fatica
Address: 7751 S. Alder Dr.
Tempe, AZ 85284

To: Tempe Development Services
Re: Support for Variance Request for Matwick Residence

I am writing this letter in support of Michael and Betty Matwick being granted a variance to place an accessory building 12' north of their rear yard property line. I have had the opportunity to review the overall plan and feel that it will have no negative impact to my property, and believe that it will ultimately enhance the overall value of the property.

Signature: 

Printed Name: Stephen T. Schlottner

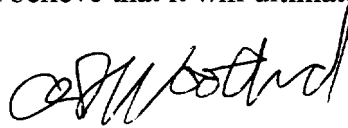
Address: 1718 E Secretariat Dr.
Tempe Az 85284

To: Tempe Development Services
Re: Support for Variance Request for Matwick Residence

1-1-2018

I am writing this letter in support of Michael and Betty Matwick being granted a variance to place an accessory building 12' north of their rear yard property line. I have had the opportunity to review the overall plan and feel that it will have no negative impact to my property, and believe that it will ultimately enhance the overall value of the property.

Signature:

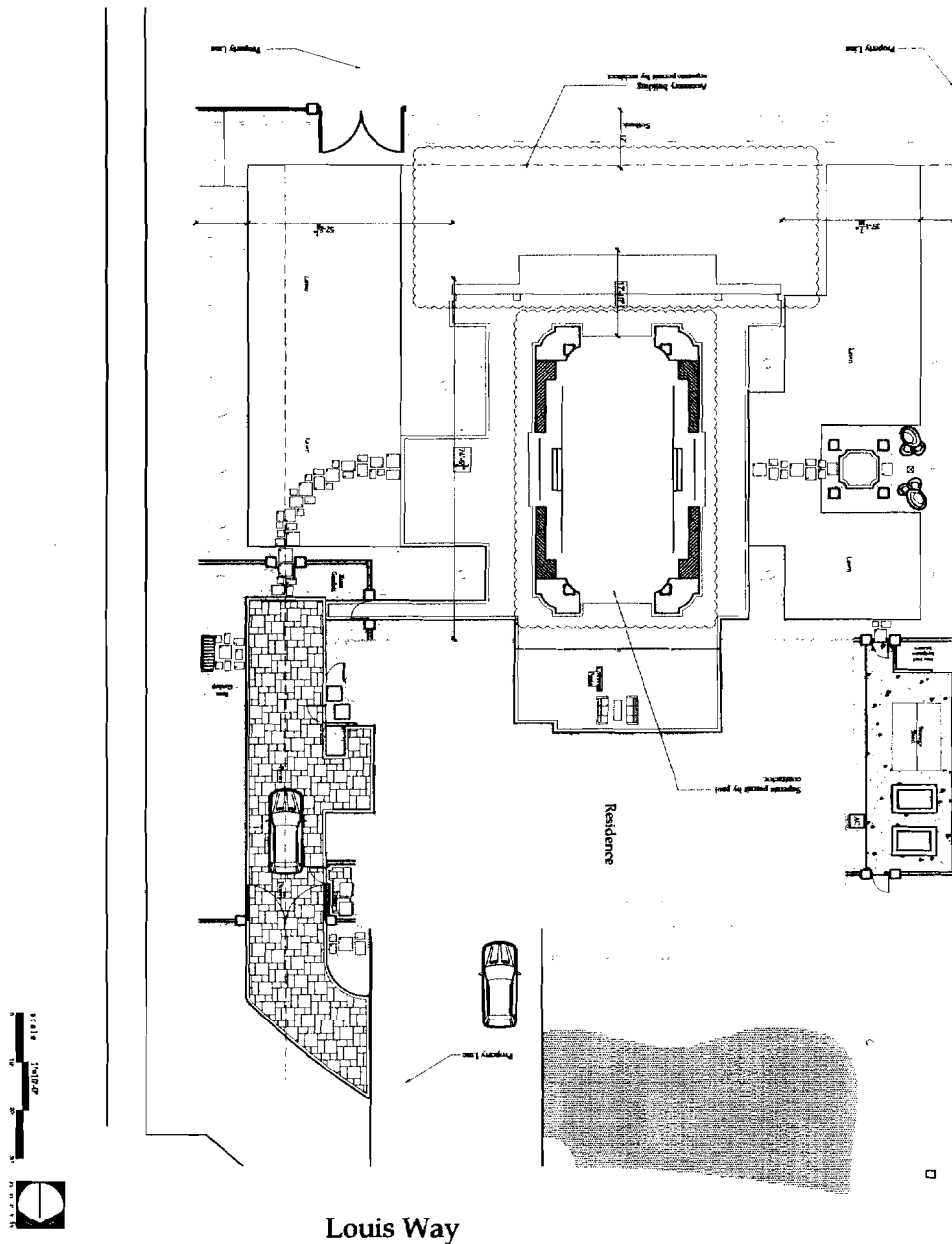


Printed Name:

Andrew Woodward

Address:

1545 E Louis Way
Tempe, AZ 85284



Louis Way

00087.01
APRIL 1, 2008

NOTE: This sheet is to be used as a reference in conjunction with another set of project specific drawings. There may be areas within this particular sheet containing in other sheets and/or notes on other sheets pertaining to this particular sheet. Thus, another set of project specific drawings should be reviewed prior to excavating and/or construction.

Matwick Residence

1733 East Louis Way
Tempe, AZ 85284

ATTACHMENT 12



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MATWICK RESIDENCE

1733 E LOUIS WAY

PL080037

**ACCESSORY BUILDING ON THE PROPERTY TO
THE WEST IN THE R1-10 ZONING DISTRICT**



MATWICK RESIDENCE

1733 E LOUIS WAY

PL080037

**ACCESSORY BUILDING ON THE PROPERTY TO
THE SOUTH IN THE AG ZONING DISTRICT
ALONG WITH ADJACENT BRIDAL PATH**



MATWICK RESIDENCE

1733 E LOUIS WAY

PL080037

REAR YARD OF RESIDENCE



MATWICK RESIDENCE

1733 E LOUIS WAY

PL080037

FRONT OF RESIDENCE



MATWICK RESIDENCE

1733 E LOUIS WAY

PL080037

REAR YARD OF PROPERTY